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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,950	08/22/2003	Frederick James Diggle III	030309	8256
26285	7590	04/06/2004	EXAMINER	
KIRKPATRICK & LOCKHART LLP 535 SMITHFIELD STREET PITTSBURGH, PA 15222				CHAN, KO HUNG
		ART UNIT		PAPER NUMBER
				3632

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/645,950	Applicant(s) DIGGLE ET AL.
Examiner Korie H. Chan	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 August 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 11/19/03; 12/12/03.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-6, 9, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what is meant by "dimension is a function of weight, length, and a quantity" as recited in claims 3-6, 9, and 19. Such recitation is indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 13, 14, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ramussen (US patent no. 6,073,315). Ramussen discloses a wire carrier structured to support at least a portion of at least one supported object, the wire carrier comprising: an elongated strap (10, figure 1) having a proximate end and a distal end, the distal end of the elongated strap having a plurality of calibrated holes (32) formed therein, wherein at least one dimension of at least one of the calibrated holes is a function of a characteristic of the supported object; a globe button (26, figure 2) formed in a portion of the elongated strap; each the calibrated hole being structured for

receiving the button therein for promoting operative association of the calibrated hole with the button to form an enclosure portion of the elongated strap (figure 3), the enclosure portion being structured for supporting the supported object therein, wherein the operative association of the button and the calibrate hole is configured for release upon exertion of a predetermined level of force on at least one portion of the elongated strap; and, at least one slit (36) formed adjacent to a circumference of at least one of the calibrated holes, wherein at least one dimension of at least one of the slits is a function of a characteristic of the supported object; and bearing (the portions of strap surrounding the holes) adjacent circumference of hole.

Claims 1, 5-14, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberts et al (US patent no. 4,990,157). Roberts discloses a carrier capable of supporting wires structured to support at least a portion of at least one supported object, the wire carrier comprising: an elongated strap (20) having a proximate end and a distal end, the distal end of the elongated strap having a plurality of calibrated holes (24 and 26) formed therein, wherein at least one dimension of at least one of the calibrated holes is a function of a characteristic of the supported object; a globe button (22, figure 3) formed in a portion of the elongated strap; each the calibrated hole being structured for receiving the button therein for promoting operative association of the calibrated hole with the button to form an enclosure portion of the elongated strap (37, figure 3), the enclosure portion being structured for supporting the supported object (42) therein, wherein the operative association of the button and the calibrate hole is configured for release upon exertion of a predetermined level of force on at least one portion of the

elongated strap; and further comprising a connection portion formed by connection of the proximate end of the elongated strap to a portion of the elongated strap; and further comprising a redundant release system (note that the ends of the strap 20 has same button 22 and holes 24 and 26) operatively associated with the proximate end of the elongated strap; wherein the redundant release system includes a release button (22) threadedly attaching the proximate end of the elongated strap to the portion of the elongated strap; and further comprising at least one bearing (portions of strap assembly defining and surrounding holes 24 and 26) positioned adjacent to at least a portion of a circumference of at least one of the calibrated holes; wherein the supported object includes at least one type of wire (42).

Claims 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Trask (D310,716). Trask discloses a carrier capable of carrying a wire structured to support at least a portion of at least one supported object, the carrier comprising: an elongated strap (figure 2) having a proximate end and a distal end, the distal end of the elongated strap having a snap button formed therein; a snap button receptacle formed in a portion of the elongated strap; and, the snap button receptacle being structured for receiving the snap button therein for promoting operative association of the snap button receptacle with the snap button to form an enclosure portion of the elongated strap, the enclosure portion being structured for supporting the supported object therein; wherein the operative association of the snap button and the snap button receptacle is configured for release upon exertion of a predetermined level of force on at least one portion of the elongated strap; and further comprising a connection portion formed by

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connection of the proximate end of the elongated strap to a portion of the elongated strap; and further comprising a redundant release system (figure 5 shows the snap button capable of snapping onto the receptacle at the end of the top loop which is its redundant release system) operatively associated with the elongated strap.

Applicant's recitation "wire carrier" treated as "carrier for a wire" is a recitation to an intended usage and is not accorded with patentable weight. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other cited prior art demonstrates various straps forming loop(s).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan
Primary Examiner
Art Unit 3632

Khc
April 1, 2004